

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2004-16-T - ORDER NO. 2004-582  
NOVEMBER 30, 2004

IN RE:	Application of Thomas W. Bivens d/b/a	)	ORDER APPROVING
	Bivens Moving Services, 1808 Biltmore	)	WITHDRAWAL OF
	Drive, Charleston, SC 29412 (District 6) for a	)	APPLICATION AND
	Class E Certificate of Public Convenience and	)	RESCINDING ORDER
	Necessity.	)	NO. 2004-226

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of the request of Thomas W. Bivens d/b/a Bivens Moving Services (Bivens or the Company), 1808 Biltmore Drive, Charleston, South Carolina 29412 to withdraw the Company's Application in this docket. On January 5, 2004, Bivens filed an Application with the Commission seeking authority to transport household goods, as defined in R. 103-210(1), under a Class E Certificate of Public Convenience and Necessity (Certificate or Certificate of PC&N).

A hearing on Bivens' Application was held before the Commission on April 8, 2004. At its regularly scheduled agenda meeting of April 13, 2004, the Commission approved Bivens' Application for a Class E Certificate of PC&N, and accordingly Order No. 2004-226. By Commission Order No. 2004-226, Bivens was granted authority to operate under a Class E Certificate of PC&N conditional upon filing of the proper insurance, safety rating, and other information required by S.C. Code Ann. Section 58-23-10 et seq. (1976), as amended, and by R.103-100 through R.103-241 of the Commission's Rules and Regulations for Motor Carriers, S.C. Code Ann. Vol. 26 (1976),

as amended, and R.38-400 through R.38-503 of the Department of Public Safety's Rule and Regulations for Motor Carriers, S.C. Code Ann. Vol. 23A (1976), as amended, within sixty (60) days of the date of Order No. 2004-226, or within such additional time as may be authorized by the Commission. On August 16, 2004, Bivens filed a request seeking a sixty (60) day extension of time to come into compliance with Order No. 2004-226 by allowing Bivens additional time to prepare for the S.C. Transport Safety inspection. The Commission granted Bivens' request and accordingly issued Order No. 2004-400 which extended Bivens' deadline for compliance to October 23, 2004. Thereafter, by letter dated October 21, 2004, from Bivens' counsel, Bivens requested a suspension of the authority granted to Bivens by Order No. 2004-226 for a period of six (6) months. According to Bivens, the requested suspension was necessary in order to come into compliance with all of the rules and regulations of the Commission. Bivens added that the request was made with the reservation of rights to go forward with compliance of Order No. 2004-226 without need of a new application and petition.

At its regularly scheduled agenda meeting of October 27, 2004, the Commission denied Bivens' request for a suspension of authority. Hence, the Commission issued Order No. 2004-547, dated October 28, 2004, which denied Bivens' suspension and ordered the Commission Staff to investigate the reasons for Bivens' request for suspension.

On November 12, 2004, Bivens, by correspondence from the Company's counsel, filed its present request seeking approval for withdrawal of the Company's Application. As reasoning for the request, Bivens' counsel states that Mr. Bivens, owner of the Company, has concluded that due to circumstances beyond his control, he no longer feels

that he will be able to come into compliance with the regulations of the Commission regarding the insurance requirement for final issuance of a Class E Certificate at the present time or within the next six months; therefore, Bivens wishes to withdraw the Company's Application for a Class E Certificate of PC&N.

Upon full review of the matters asserted in Bivens' request, the Commission is of the opinion, and so finds, that the relief requested by the Company should be granted. Further, the Commission finds that Order No. 2004-226, dated June 24, 2004, should be rescinded.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED,

1. That the request of Thomas W. Bivens d/b/a Bivens Moving Services to withdraw the Application in this docket seeking authority to transport household goods under a Class E Certificate of Public Convenience and Necessity is hereby granted.

2. That Order No. 2004-226, "Order Granting Class E Certificate" issued to Thomas W. Bivens d/b/a Bivens Moving Services is hereby rescinded.

3. That this Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

/s/  
Randy Mitchell, Chairman

ATTEST:

/s/  
G. O'Neal Hamilton, Vice Chairman

(SEAL)